

DISABILITY DISCRIMINATION LAW IN AUSTRALIA

Disability discrimination is where a person is treated unfairly or harassed because of their disability. The *Disability Discrimination Act (DDA)* makes discrimination on the grounds of a person's disability against the law, with some exceptions. The DDA applies everywhere in Australia and is looked after by the Australian Human Rights Commission (AHRC)

If you think you have been discriminated against or harassed because of your disability, you should contact a lawyer or community legal centre.

THE DISABILITY STANDARDS FOR EDUCATION

Disability Standards help us to understand disability discrimination law better by setting out in detail the rights of a person with a disability as protected by the DDA. There are Disability Standards for particular areas of life, including education.

The DDA Education Standards set out the rights of students with a disability in the area of education. They also set out the obligations that education providers, such as schools and universities, must meet in order to help students with a disability.

The main aim of the Education Standards is to give students with a disability the right to participate in educational programs on the same basis as students without a disability. This means having access to the same educational opportunities and choices as all other students.

If an education provider does not carry out its obligations to a person with a disability in line with the Education Standards, that person can make a formal complaint to AHRC.

WHO IS PROTECTED UNDER THE EDUCATION STANDARDS?

The Education Standards protect any person with a disability who is enrolled in or who has approached an education provider about enrolling in a pre-school, school, college, university, TAFE or any other organisation that educates or trains people.

The Standards also protect any person with a disability from discrimination by an education provider even if that person has left or has been expelled by the education provider.

WHO HAS OBLIGATIONS UNDER THE STANDARDS?

The Education Standards cover the following education providers:

- › Preschools and kindergartens (but not childcare centres)
- › Public and private schools
- › Public education and training places, such as TAFE
- › Private education and training places, such as private business colleges
- › Universities
- › Organisations that prepare or run training and education programs

WHAT ARE THE OBLIGATIONS?

The Education Standards put three main obligations on education providers.

1. **Obligation to consult**
2. **Obligation to make reasonable adjustments**
3. **Obligation to eliminate harassment and victimisation**

WHEN DO THE EDUCATION STANDARDS APPLY?

The Education Standards cover all stages of a person's time at school or in an education or training course, from the time they apply to enrol right up to the time they finish. The Education Standards make it against the law to discriminate against a person because of their disability at any of the following points in the education process:

- › **When an education provider is deciding what will be taught in a course**
- › **When a person is enrolling in school or a course**
- › **While a person is taking part in school or a course**
- › **If a person requires support services to take part in school or a course**
- › **When a person finishes school or a course**
- › **If a person is suspended or expelled from school or a course**
- › **If a person is harassed or victimised while taking part in school or a course**

- › **When an education provider is deciding what will be taught in a course**

Education providers must think about the needs of students with a disability when they are deciding what will be in a course and how they will teach it. They need to think about the types of adjustments or different ways of teaching that can help a student with a disability to achieve the main aims of a course.

- › **When a person is enrolling in school or a course**

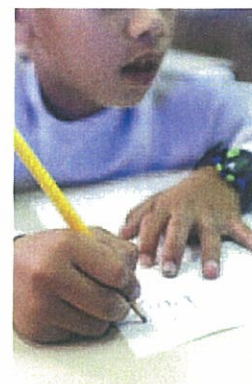
Students with a disability should be able to enrol in a course or a school just like any other person. This includes requesting information or asking questions about enrolling. To do this they need to be able to access all course or enrolment information.

- › **While a person is taking part in school or a course**

This includes making sure that students with a disability have the same opportunities to participate in school or a course as other students. This may mean making adjustments to how the course is taught, what materials are used, and how students will be assessed.

- › **If a person requires support services to take part in school or a course**

Education providers must make sure that students with a disability can access and use support services that will help them participate at school or in an education course.



› **When a person finishes school or a course**

Education providers must make sure that students with a disability receive the same recognition for their learning and training outcomes as students without a disability.

› **If a person is suspended or expelled from school or a course**

The Education Standards apply to situations where an education provider makes a decision to expel or suspend a person from school or a course because of their disability. Education providers need to be very careful when they make decisions like this. You or your family or a support person should talk to a lawyer straight away if this happens to you.

› **If a person is harassed or victimised while taking part in school or a course**

The Education Standards say education providers must ensure that all staff and students are aware that there are rules against harassing or victimising a student with a disability or their associates. Harassment and victimisation of people is illegal and education providers must take all reasonable steps to prevent this happening.

CASE STUDY

TEACHING

David is a university student. He has a vision impairment. David needs his course materials printed in large print. On several occasions one of his teachers forgets to provide David with large print material. He also refuses to read the material out in class for David because he says it would take too much time. David complains to the head of the university. David, the teacher and the head of the university meet. The teacher agrees that he will do his best to ensure all material will be in large print for David before each class in the future. If this is not possible, David and the teacher agree to meet after those classes to make sure that David is clear on what material has been covered. The teacher also agrees to make the material available in large print as soon as possible after those classes.

CASE STUDY

HARASSMENT AND VICTIMISATION

Patrick has an intellectual disability. For a couple of months, a group of boys at his school called him names like 'Idiot' and 'Dumbo' in front of his class and his teacher. The teacher ignored what the boys were saying. Patrick was very hurt by what the boys were saying. He even asked the teacher to help him out, but the teacher said not to worry about it, and that it was a normal part of being at school. It was only after Patrick's parents had a meeting with the principal and the teacher that the situation was fixed. The teacher and principal agreed to discipline the boys and to notify all students and their parents about the seriousness of bullying. They also agreed to update their rules on harassment and bullying and to put a copy up on the school noticeboard.

CASE STUDY

CONSULTING AND WORKING TOGETHER TO FIND ADJUSTMENTS AND SOLUTIONS TO HELP STUDENTS PARTICIPATE.

Kate and her daughter Fiona have moved to a country town. Fiona has an intellectual disability and sometimes has difficult behaviour, like yelling out in class. The country town has only one public school. When Kate tells the school about her daughter's disability the principal refuses to accept Fiona's enrolment as a student. Kate writes a letter to the principal telling her that she thinks this is unfair, especially when the principal won't provide written reasons for the refusal. Kate says she will be making a complaint to HREOC if the principal doesn't do something about it.

The principal organises a meeting with Kate and Fiona. During that meeting they discuss some of the challenges that Fiona's disability might create in the classroom. The principal agrees to have a teacher with special training come and look at the school and make recommendations on how these challenges might be overcome by adjustments.

After these recommendations, Kate suggests to the principal that Fiona should be allowed to come to school on a three-month trial basis. The principal agrees. In the first few weeks there are many problems, and Fiona often refuses to stay in class, especially in English. After another meeting with Kate and Fiona, the principal agrees that a teacher's aide could sit with Fiona in her English class to provide support.

With the help of the teacher's aide Fiona is fine. Gradually, the time the teacher's aide spends with Fiona is less and less, until they only have to meet once a week to talk about how Fiona is going. Fiona is accepted as a full-time student at the end of the three-month trial.



Direct discrimination

Direct discrimination occurs when a person is treated less favourably than a person without the disability would be treated in the same or similar circumstances.

Example

It would be direct disability discrimination if a learner with a disability was not allowed to participate in a sports day.

Discrimination issue

There is direct discrimination because the learner does not have the opportunity to participate on the same basis as other learners. The action to prevent any participation makes it direct discrimination.

How could direct discrimination be avoided?

The sports day could be planned so that there are events in which the learner can participate. This may require some accommodations/adjustments for the learner and some additional personal support.

Indirect discrimination

Indirect discrimination occurs in situations where a requirement is the same for all people, but in some way unreasonably disadvantages a person because they have a disability.

Example

It would be indirect disability discrimination if a teacher assessed the knowledge of a group of learners by requiring them all to write a report, even though one member of the group had a learning disability, which affected their ability to write effectively.

Discrimination issue

There is indirect discrimination because, while there is the same requirement for everybody, the person with a learning disability does not have the opportunity to participate in the assessment on the same basis as other learners.

How could indirect discrimination be avoided?

There are other ways to assess the knowledge of a learner. The section on 'Accommodations/adjustments' in chapter 6 'Disability Discrimination Act Standards for Curriculum Development, Accreditation and Delivery' has a range of examples of alternative practices.

Access



Access refers to a learner being enrolled and attending at a site. It is affected by withdrawal from class, suspension and exclusion.

Moore, M., Jackson, M., Fox, S. & Ainscow, M. (2004) Manchester Inclusion Standard: High standards for all: Guidance for Schools. Manchester City Council, UK, p. 7.

Participation

Participation refers to the way in which the learner engages with the learning activities.

Participation is affected by such things as: the appropriateness of learning activities; the quality of teaching and the support provided; and the skills, interests and motivation of the learner.

Unjustifiable hardship

If the adjustments required to accommodate a person with a disability impose an unreasonable burden on the organisation, then it may be considered to be an unjustifiable hardship.

It is unlikely that a large public educational authority would be able to use this defence due to the nature of financial support available from the government. However, each case must be judged on its individual circumstances.

It is important to remember that most adjustments within the public education sector will not be considered as an unjustifiable hardship.

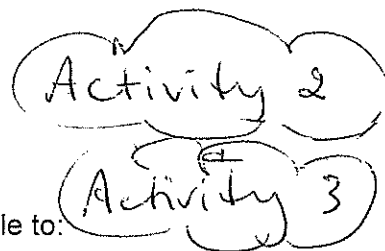
Special measures

Section 45 of the DDA allows for the establishment of special programs/structures to provide equal opportunities for people with disabilities. Examples include: sporting teams for people with disabilities; or employment registers of people with disabilities. Such arrangements are called **special measures**.

Reasonable adjustments

These are changes and/or alterations to provide an equal opportunity in relation to access, participation and achievement for a learner with a disability. They also serve to eliminate discrimination as far as possible. Consideration needs to be given to:

- the learner's disability
- the views of the learner or the learner's associate
- the effect on the learner's:
 - ability to achieve learning outcomes
 - ability to participate in programs
 - independence.
- the effect of the proposed adjustment on anyone else affected, e.g. staff and other learners
- the costs and benefits of making the adjustments.



On the Same Basis — means that a person with a disability must be able to:

- seek admission,
- participate in the program, and
- use the facilities and services

of education institutions on the same basis as a student without a disability so that the person has choices and opportunities that are comparable to those of other students without disabilities.

Section 2.2 of the Disability Standards for Education has more information. See Appendix 1, p.10.

Adjustments — are actions or measures taken that assist a student with a disability to:

- apply for enrolment,
- participate in the program, and
- use the facilities or services

on the same basis as a student without a disability. Measures include an aid, a facility or a service that the student requires because of her/his disability.

Disability Standards for Education, Section 3.3. See Appendix 1, p. 11.

Reasonable Adjustments — an adjustment is reasonable if it takes into account the needs of the learner and balances the interests of all parties affected. When assessing whether an adjustment is reasonable, consideration needs to be given to:

- the nature of the learner's disability
- the effect of the adjustment on the learner's ability to achieve learning outcomes, participate in courses and programs and operate independently
- the costs and benefits of making the adjustment.

A key aspect of the enhanced meaning of reasonable adjustment provided in the Standards is that the education provider is required to consult with the learner and/or her/his associate about the appropriateness of the adjustment. An education provider may provide an alternative adjustment to the learner's preferred form of adjustment if the alternative is effective in achieving the desired purpose and would be less disruptive and intrusive for the learner and for others. It is most important to seek professional expertise in deciding on an adjustment.

Disability Standards for Education, Section 3.4. See Appendix 1, pp. 11–12.

Reasonable Time — the education provider must take reasonable steps to ensure that any adjustment required is made within a reasonable time. Whether or not the time is reasonable for any adjustments to be made depends on whether and when the student or their associate has provided:

- any relevant information about how the disability affects the student in relation to education or training, and
- the student's or associate's opinion about the adjustments.

Disability Standards for Education, Section 3.7. See Appendix 1, p. 13.

Obtaining Disability Information — an education provider is entitled to information about the learner's disability and individual requirements, if that information is to be used for:

- assessing the nature and extent of the adjustment needed and the provider's capacity to provide the adjustment, and
- clarifying the learner's ability to comply with any non-discriminatory requirements of the course or program.

Disability Standards for Education. Guidance Notes, Section 4.3. See Appendix 2, pp. 4–5.

(Alternative Activity 3)

Reasonable adjustments and unjustifiable hardship

An **adjustment** will have costs and benefits.

Benefits may include positive learning, social and wellbeing outcomes.

Costs may include additional staffing, resources and facility modifications, and effects on others.

A **reasonable adjustment** balances benefits against costs.

It is important not to confuse the concepts of **unreasonable adjustment** and **unjustifiable hardship**.

It is necessary to first decide if the adjustment is reasonable and then to decide if making the adjustment will impose an unjustifiable hardship.

Note:

The Standards extend the concept of unjustifiable hardship to cover the whole time in which a learner is enrolled in an educational institution. (In the original DDA legislation, unjustifiable hardship applied only at the time of enrolment.)

As discussed in the previous chapter, the resources available to a state government education provider are considerable and it would be very difficult for a government preschool or school to successfully claim that the cost of an adjustment is an unjustifiable hardship. This is because the provision applies to systems and not to individual institutions within systems.

In assessing whether an adjustment is reasonable, the provider is entitled to maintain the integrity of the program and its assessment requirements.

Obligations under the Standards for Curriculum Development, Accreditation and Delivery

Education providers must take reasonable steps to ensure that a course/program is:

- designed to enable learners with disabilities to participate in learning experiences (including assessment and certification)
- planned in consultation with the learner and associate and
- has taken into consideration whether the disability affects the learner's ability to participate in the learning experiences

on the same basis as learners without disabilities.



Making adjustments

In light of the consultation, the education provider decides whether an adjustment is necessary and, if necessary, makes that reasonable adjustment. This process must be repeated to allow for the changing needs of the learner with disabilities over time.

Specific compliance measures for the Standards for Curriculum Development, Accreditation and Delivery

The education provider may need to implement special measures to enable the learner with disabilities to participate in the learning experiences on the same basis as a learner without disabilities. These measures may include assessment requirements for the course/program.

Such measures may ensure that:

- curriculum teaching materials are available in a range of formats
- appropriate assessment/certification requirements are adapted to enable the learner with disabilities to demonstrate knowledge, skills or competencies being assessed
- program delivery modes and learning activities take into account the learning capacities and needs of the learner with disabilities and the intended educational outcomes
- supplementary/bridging courses or programs to develop disability-specific skills of personnel are provided.
- Off-site activities are designed to include the learner.

In some cases, the **nature, type and degree of severity of their disability** may mean that the Outcomes and Standards are not considered relevant. Alternatively, the expectations and program delivery may need to be modified to the extent that they are significantly different from that of their peers.

The scope of the curriculum provided for learners with disabilities is identified through the Negotiated Education Planning (NEP) process and recorded in the Learning Plan. (See chapter 12 'Personalised Education Planning' for further information about the NEP process).

In the senior years, particularly years 11 and 12, the SACSA Framework can dovetail with external curricula such as the South Australian Certificate of Education (SACE) and Vocational Education and Training (VET).

SSABSA oversees the curriculum and assessment requirements for SACE. SSABSA policy allows eligible students to demonstrate their knowledge and capabilities in different ways. This Special Provisions in Curriculum and Assessment Policy is particularly relevant to students with disabilities.

The SSABSA website <<http://www.ssabsa.sa.edu.au>> provides detailed information about the curriculum and assessment options for students with disabilities.

Accommodations/adjustments

Accommodations/adjustments can be clustered into four categories: Presentation, Response, Setting and Timing. Additional accommodations are listed in the 'Learning Plan' section of the Negotiated Education Plan. See the NEP website at <<http://www.decs.sa.gov.au>>.

Presentation

Assessment, teaching and learning may include:

- alternating new learning with opportunities for practice
- repeating instructions
- cue cards
- tapes, videos, DVDs
- reading aloud
- large print
- magnification devices
- interpreters
- signing
- braille.

Response

Learners could respond in a variety of ways:

- verbally
- by drawing
- by using word processors
- through photos
- with videos
- by another person scribing
- using model-making
- using voice-activated software
- by signing
- through a communication device
- using a braille writer.

Setting

Assessment, teaching and learning may occur in different settings, for example:

- in small groups
- in class with peer support
- in a separate venue or room
- with additional equipment such as a sloping desk-top or thicker pencils.

Timing

Adjustments may need to be made to the time allocation for assessment, teaching and learning activities.

For example, a teacher could:

- extend the waiting time for answers
- extend the time to complete tasks
- reduce the number of tasks
- alter the time of day that the task is done
- allow breaks during the activity.

Adapted from Department of Education and Children's Services. (2004). *Early Intervention Learning Difficulties Working collaboratively: improving outcomes for learners*. DECS, pp. 131–2.

Examples of assessment options:

- | | |
|---------------------------------------|----------------------------|
| • Portfolios | • Anecdotal recording |
| • Checklists | • Charts/posters |
| • Work samples | • Oral presentations |
| • Multimedia presentations | • Adults recording answers |
| • Oral questioning | • Constructing e.g. models |
| • Peer evaluation and self-evaluation | • Digital photos. |



School assessment adjusted

'A father complained that his son, who has a number of disabilities including Asperger's syndrome and Tourette syndrome, was being discriminated against by an assessment system for English oral presentation.

[In 2004] the complaint was settled with an agreement to provide a number of modifications to testing procedures for the student to accommodate his disabilities, including taking tests in familiar environments and being allowed to colour code his notes'.

Conciliated outcomes: education, 2004. Human Rights and Equal Opportunity Commission.
http://www.humanrights.gov.au/disability_rights/decisions/conciliation/education_conciliation.html.

Activity 1

Read this scenario and discuss the question below.

All students with disabilities in a secondary school have an Access Card in their diaries and each teacher has a copy of the Access Cards for the students they teach. Many of the students' Access Cards state 'limited or no copying from the board'. Two teachers continue to put copious quantities of information on the board without providing printed copies for students with disabilities or allowing them extra time to copy from the board or from a buddy.

How do the actions of these two teachers disregard the Standard for Curriculum Development, Accreditation and Delivery?

Discussion points for this scenario are provided at the end of the chapter.

Activity 2

For this activity, you will need the SACSA Framework resource.

1. Read the details for students 1–4 and select a student similar to one you teach.
2. Turn to the next page, and
 - Read the section below 'How do I cater for the diversity of learners within a class/group?'.
 - Follow the process steps below under 'How do I use this model for inclusive programming?'.

Student 1

- Six year old male, in year 1
- Interests — trains, dinosaurs
- Socially withdrawn
- Expressive and receptive language difficulties
- Fine and gross motor skills less than age appropriate
- Becomes anxious when expected to attempt new tasks.

Student 2

- Eight year old female
- Interests — playing with soft toys especially dolls, interacting with peers and younger learners, drawing
- Literacy skills approximately three years less than her peers
- Difficulty coping with changes to routine
- Hearing difficulties due to ear infections
- Absences average six to ten days per term.

Student 3

- Thirteen year old male, in year 8
- Interests — cricket, soccer, construction activities
- Popular with peers
- Limited intellectual functioning
- Language disorder
- Easily distracted
- Has difficulty with organisation skills.

Student 4

- Fourteen year old female, in year 9
- Less than age appropriate social skills
- Likes using a computer and watching DVDs about pop stars
- Waits for 1:1 adult support to begin tasks
- Autism
- Limited body awareness
- Limited verbal skills.

For information about autism go to <<http://www.autismsa.org.au/>>.

Activity 2 *continued*

How do I cater for the diversity of learners within a class/group?

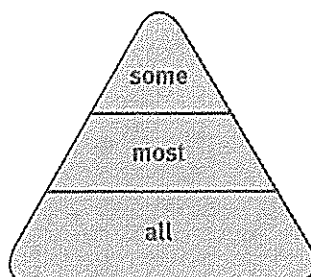
'All, Most, Some' Support Plan

The 'All, Most, Some' model developed by Schumm, Vaughn and Leavell (1994) provides educators with a pyramid framework for inclusive planning.

What *some* learners will learn

What *most* learners will learn

What *all* learners will learn



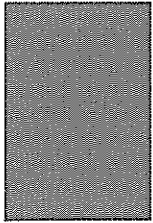
Adapted from Schumm, J. S., Vaughn, S. & Leavell, A. G. (1994). 'Planning Pyramid: A framework for planning for diverse student needs during content area instruction'. *Reading Teacher*. 47, 8, 608-15. Copyright © 1994 by the International Reading Association.

How do I use this model for inclusive programming?

The process:

- Select a topic/unit of work.
- Consider the Standards and Outcomes that will be addressed from the Learning Area(s) in the SACSA Framework.
- Identify what learners need to know and be able to demonstrate in order to achieve the outcome(s).
- Identify the curriculum differentiation in the form of accommodations and strategies to support success; resources can also be listed.
- Design methods to collect evidence of learning.

Use the flow chart on the following page to plan curriculum content, delivery and assessment for the class of which that learner is a member.



Activity 2 Curriculum planning proforma

Student: Curriculum Area: Strand: Outcomes:			
Considerations: <ul style="list-style-type: none">• Ability to follow verbal instructions• Writing ability• Ability to express himself/herself and make their needs known			
Learning activities: <ul style="list-style-type: none">• All• Most• Some	Differentiation—Teaching Strategies/ Accommodations <ul style="list-style-type: none">• All• Most• Some	Assessment <ul style="list-style-type: none">•••••••	

Activity 1

Direct or indirect discrimination quiz

Complete the following quiz and discuss in a group.

Action	Example	Direct or Indirect Discrimination?
Refusing or discouraging a learner's enrolment application	<p>1. Saying: 'There are no places at preschool,' (when there are vacancies).</p> <p>2. Saying: 'We already have a lot of learners with learning difficulties. The school down the road has a very good reputation with these learners.'</p>	
Setting terms or conditions on which the site is prepared to admit the learner	<p>3. Saying to the parents/caregivers: 'We need a volunteer to provide extra help — do you know anyone?'</p> <p>4. Saying: 'If we get funding, your child can come here.'</p>	
Denying or limiting the learner's access to benefits provided	<p>5. Not offering Languages (e.g. Italian or French) as the learner has difficulty with English.</p> <p>6. Telling the parents/caregivers that the learner cannot go on an excursion because the destination isn't suitable.</p>	
Suspending and/or excluding a learner, whose disability impacts on her/his understanding of the school behaviour policy	<p>7. Suspending and/or excluding a learner for infringing the standard school behaviour guidelines or policy</p> <p>8. Allowing conditional re-entry, resulting in ongoing reduction in the number of lessons attended.</p>	

Answers are provided at the end of this chapter.

Answers for Activity 1 — Direct or indirect discrimination quiz

Example	Type of Discrimination	Points to Consider
1	Direct	There are vacancies — the learner is being refused enrolment because of their disability.
2	Indirect	Enrolment is not actually refused but is discouraged by suggesting alternative options as better able to meet the needs of the learner.
3	Direct	The inference is that the learner's needs can be met only if another person is there for support. This is a 'condition' to the enrolment. It is unlikely to be suggested if the learner did not have a disability.
4	Direct	The inference is that the learner's needs can be met only if extra funding is made available. Enrolment of learners with disabilities cannot be made contingent upon funding.
5	Indirect	Languages are a mandated part of the SACSA Framework. All learners, regardless of their ability, are entitled to access and participate in these classes. To suggest Languages are not a high priority due to ability with English, although not actually refusing the learner the opportunity to study languages, is indirect discrimination.
6	Direct	Planning for an excursion must include assessing the accessibility of the location for all learners, including those with disabilities.
7	Indirect	Behaviours associated with a disability may impact on the ability of learners with disabilities to comply with a site's behaviour policy. Reasonable adjustments may need to be made.
8	Indirect	A learner's attendance needs to be negotiated to meet the needs of the learner. All learners over the age of 6 and under the age of 16 are entitled to attend school full-time. An ongoing reduction in attendance requires special approval. (See Appendix 3 for further information.) If a temporary reduction in session times is not a strategy that would be used with learners without disabilities at re-entry meetings, the strategy is indirectly discriminating against a learner.

Activity 2

There is often a diversity of learners with disabilities in preschools and schools. What are some of the *reasonable adjustments* that are/could be made for learners with disabilities:

1. Within your site?

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2. Within your classroom/learning space/school yard?

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There is information about the range of reasonable adjustments in chapter 6 'Disability Standards for Curriculum Development, Accreditation and Delivery'.

Activity 3

Read the following scenario and use the questions as a framework for discussion.

Jason is 10 years old and enjoys using the computer, playing with cars and looking at books about space. In the playground, he likes to use the swing and climbing equipment. He has autism, severe epilepsy and exhibits challenging behaviours characterised by hitting, biting and screaming. He has not yet attended school on a regular, full-time basis. His parents are finding it increasingly difficult to support Jason and want him to attend school full-time. The staff involved have refused to consider this. Using the Negotiated Education Planning process and with input from several disability support agency personnel, it has been eventually negotiated that Jason's attendance at school will increase to full-time over 10 weeks. When Jason does not have 1:1 support his teacher requires him to stay in a corner area of the classroom — this is not negotiated 'down time'.

- 1. Identify the discriminatory actions — are they direct or indirect discrimination?**
- 2. What *reasonable adjustments* need to be made?**

Comments are at the end of this chapter.

For information about autism go to <http://www.autismsa.org.au/>.

Comments on Activity 3

Discriminatory actions:

- The child is 10 years old and has not yet attended school full-time (see Appendix 3 for more information on part-time enrolment).
- There is an initial refusal of staff to consider the parents' request for full-time attendance for their child.
- There is no planning or educational program provided when 1:1 support is not provided.

Reasonable adjustments:

- An educational program, e.g. peer support or negotiated 'down time', is provided when 1:1 support is not available.
- A positive behaviour strategy is implemented when 1:1 support is not available
- An alternative program in the school is considered.
- Other educational options in the district are considered.

Scenario 1 continued

Identify any discriminatory/potentially discriminatory practices or behaviours and the relevant area of the Standards.

1. This situation could be potentially discriminatory in all areas of the Standards.
2. It would be discriminatory if the school were to assume that this child could participate in the curriculum on the same basis as other five year old students without disabilities.
3. It would be discriminatory if a suitable curriculum that ensured that the child could access all areas of the curriculum on the same basis as other children was not developed to meet this child's needs.
4. It would be discriminatory if support was not used in the school or not accessed from any relevant support services.
5. Although the school has few learners with disabilities, it would still be discriminatory if measures were not taken to ensure that no harassment or victimisation of this child occurs.

How does the situation relate to the principles of *on the same basis* and *reasonable adjustments*?

The school has enrolled the child on the same basis as other students, but now needs to ensure that she can attend and participate on the same basis as other learners by making whatever reasonable adjustments are necessary. This requires the school to contact a speech pathologist and to speak with the girl's family and their support agency, regarding the assessment of her functional skills and modifying and/or providing any specialist equipment and support.

Scenario 2

Key issues

1. This student should have a curriculum developed and delivered to meet his needs, not the needs of the teacher or other students.
2. The student should be doing year 11 subjects following a recognised SACE pattern that has been recorded in his Learning Plan as part of the Negotiated Education Planning process.

Identify any discriminatory/potentially discriminatory practices or behaviours and the relevant area of the Standards.

1. Making the student study subjects at an inappropriate year level is discriminatory.
2. All other year 11 students in mainstream classes would be studying SACE Stage 1 subjects.
3. This requirement to study year 12 subjects does not meet the Standards set out in Participation, Curriculum and Student Support Services.

How does the situation relate to the principles of *on the same basis* and *reasonable adjustments*?

This student is not able to study year 11 on the same basis as other year 11 students, and reasonable adjustments to ensure he can do this are not being made. In a class of nine students, it should be possible to use support services and school resources to ensure that he has an individual curriculum at an appropriate year level.

Scenario 3

Key issues

1. The student not accessing the curriculum on the same basis as other students
2. The teacher's right to work in a safe environment
3. All students' rights to learn in a safe environment and within a supportive learning environment.

Identify any discriminatory/potentially discriminatory practices or behaviours and the relevant area of the Standards.

1. Refusing to allow this student to attend Technical Studies due to her disability is discriminatory.
2. Support should be provided to ensure that both she and the other students and staff are safe.
3. The areas of the Standards that are relevant to this situation are Participation, Curriculum Development, Accreditation and Delivery and Student Support Services.

How does the situation relate to the principles of *on the same basis* and *reasonable adjustments*?

This student is not being treated on the same basis as all other year 8 students, nor are reasonable adjustments being made.

Further Information

The Disability Standards for Education are available from the website of the Commonwealth Attorney General's Department
<<http://www.ag.gov.au/DSFE>>

(Also, see Appendix 1 of this document.)